

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

JULY 25, 1995

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 95-0460

STATE OF WISCONSIN

IN COURT OF APPEALS
DISTRICT III

CLIFFORD A. ROBBINS,

Plaintiff-Appellant,

v.

JOHN HUSZ, Chairman,
WISCONSIN PAROLE COMMISSION,

Defendant-Respondent,

APPEAL from an order of the circuit court for Outagamie County:
JAMES T. BAYORGEON, Judge. *Affirmed.*

Before Cane, P.J., LaRocque and Myse, JJ.

PER CURIAM. Clifford Robbins appeals a trial court order that dismissed his lawsuit for mootness. Robbins' lawsuit sought: (1) certiorari review of a November 1993 parole commission decision; and (2) damages from the commission under 42 U.S.C. § 1983 for allegedly denying him due process. His lawsuit claimed that the commission wrongfully withheld discretionary

parole under § 304.06(1r), STATS., after failing to consider the fact that he had obtained his GED while in prison. The trial court concluded that Robbins' lawsuit was moot, having learned that one year later in November 1994, the commission had expressly considered Robbins' GED and found it insufficient to justify his parole under § 304.06(1r).

We agree with the trial court's analysis. The commission's express examination of Robbins' status as GED earner and finding it insufficient to warrant release in November 1994, rendered Robbins' complaints about the commission's November 1993 decision moot. His complaints about the November 1993 decision, if reviewed by the trial court, would have had no practical effect on an existing controversy. *Milwaukee Police Assoc. v. City of Milwaukee*, 92 Wis.2d 175, 183, 285 N.W.2d 133, 137 (1979). Had the trial court ruled in Robbins' favor regarding the commission's November 1993 decision, the trial court could have done nothing more than direct the commission to do what the commission had already done in its November 1994 decision – re-evaluate Robbins' eligibility for parole in light of his GED. Under these circumstances, Robbins' lawsuit no longer presented an existing controversy, and the trial court correctly ordered its dismissal.

By the Court. – Order affirmed.

This opinion will not be published. See RULE 809.23(1)(b)5, STATS.